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Attorneys for the Department

**IN THE UNITED STATE DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

<b>TOM REED, and JERRY REED,</b>  <b>Plaintiffs,</b>  <b>v.</b>  <b>MONTANA DEPARTMENT OF REVENUE,</b>  <b>Defendant.</b>	<b>Case No: CV-23-51-H-BMM-KLD</b>  <b>MONTANA DEPARTMENT OF REVENUE’S MOTION TO DISMISS UNDER RULE 12(B)(1) AND 12(B)(6) OR ALTERNATIVELY MOTION FOR STAY</b>
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The Montana Department of Revenue (Department) appears now, through counsel, and moves this Court for an Order dismissing the Plaintiffs’ Complaint for Declaratory and Injunctive Relief on the grounds that either Plaintiffs lack standing and their claims are not ripe pursuant to Federal Rule of Civil Procedure 12(b)(1) or Plaintiffs failed to state a claim upon which relief can be granted pursuant to

Federal Rule of Civil Procedure 12(b)(6). Alternatively, the Department moves the Court to stay under *Pullman* abstention pending the outcome of the related action, *Reeds v. Montana Department of Revenue*, filed in Montana's First Judicial District Court, Lewis & Clark County, Cause No. DDV-2023-498.

Plaintiffs alleged that the Montana Marijuana Regulation and Taxation Act's residency requirement under § 16-12-203(2)(g), MCA, violates the Montana and U.S. Constitutions. However, regardless of Plaintiffs' residency status, Plaintiffs' own admissions show that they are prohibited from obtaining a license under § 16-12-203(2)(e)(ii), MCA, for violations of the MMRTA. For the reasons set forth in the Department's Brief in Support for its Motion to Dismiss under Rule 12(b)(1) and 12(b)(6) or Alternatively Motion for Stay, the Department respectfully request that the Court dismiss this matter.

DATED this 15<sup>h</sup> day of August 2023.

MONTANA DEPARTMENT OF  
REVENUE

/s/Hannah S. Cail  
HANNAH S. CAIL  
Legal Counsel

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the foregoing has been made this 15th day of August, 2023, by filing with the CM/ECF system that sends notice electronically to:

Brian Miller  
Attorney for Plaintiffs

/s/ *Hannah Cail*  
HANNAH CAIL  
Montana Department of Revenue